IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1762 of 1997

Between:

S. Narasimha, S/o. Karrenna, Occ: Mechanicd Gr.I,

E.No.75877, R/o. Wanaparthy, Mahaboobnagar District.

..... PETITIONER

AND

1. The A.P.State Road Transport Corpn.,

rep.by its Managing Director,

Mushirabad, Hyderabad.

2. The Deputy Chief Traffic Manager,

A.P.S.R.T.C., Mahabubnagar Region,

Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 2nd respondent and issue appropriate order, direction or a writ particularly one in the nature of a writ of Mandamus declaring the action of the 2nd respondent in Proceedings No.LC1/876 (67)/96-RM:MBNR dated 18-11-1996 and No.LC1/876 (67)/96-RM:MBNR dated 10-01-1997 in not considering the case of the petitioner for promotion to the post of Leading Hand as per the A.P.S.R.T.C. Employees Recruitment Regulations, 1966 under 6th and 10th vacancies, as illegal, unjust, arbitrary, contrary to law, discriminatory and violative of Art.14, 16 and 21 of the constitution of India and consequently direct the 2nd respondent to consider the petitioner's case for promotion as Leading Hand with effect from 7-3-1991.

Counsel for the Petitioner :MR.A.K.JAYAPRAKASH RAO
Counsel for the Respondents : MR.K.HARINATH (SC FOR APSRTC)

The Court made the following :

ORAL ORDER:

This Writ petition is filed by the petitioner aggrieved by the orders of the second respondent dated 18-11-1996 under which the petitioner's claim for promotion to the post of Leading Hand was negatived, and also the communication dated 10-01-1997 of the Regional Manager, Mahaboob Nagar, under which the petitioner was informed that his claim for promotion to the post of leading hand cannot be considered, immediately, and he has to wait for his turn for promotion to the said post.

2. However, according to the petitioner, he was holding the certificate of ITI, apart from having National Apprenticeship Certificate. Therefore, he should have been directly appointed as Mechanic, Grade-II instead of appointing him as cleaner in the year 1978. If the petitioner is treated to have been appointed as a direct recruitee Mechanic Grade II, he is eligible for consideration for promotion to the post of Leading Hand against 6th and 10th vacancy out of 12 vacancies. Therefore, the petitioner filed a Writ Petition earlier on the ground that his case was not considered for promotion in W.P.NO.17186/1996, and this Court disposed of the said writ petition directing the authorities to consider the claim of the petitioner. Thereafter, the petitioner's claim was again considered by the 2nd respondent basing on the representation made by the petitioner dated 02-09-1996. After considering the claims and contentions advanced by the petitioner, the 2nd respondent rejected his claim, by proceedings dated 18-11-1996 stating that the petitioner's case cannot be compared with one C. Krishna Reddy, who was appointed as AC Electrician, whose case was said to have been considered as per the directions of this Court in W.P.No.23273/95 filed by him for promotion to the post of Leading Hand. This stand has been reiterated by the subsequent proceedings dated 10-01-1997. However, the petitioner has come up with the present writ petition claiming that he should be treated as direct recruitee Mechanic Grade-II, and therefore, his case ought to have been considered against 6th and 10th vacancies of Leading Hand out of 12 vacancies. Therefore, he sought for promotion to the post of Leading Hand with effect from 07-03-1981.

3. At the time of hearing, the learned Counsel for the petitioner reiterated the contentions that were taken before the authorities. But, however, the learned Counsel has fairly conceded that none of his juniors were promoted to the post of leading hand. Further, he was unable to satisfy this Court how the petitioner could be treated as a direct recruitee Mechanic, Grade II, though he was appointed as a cleaner by proceedings dated 07-06-1978. Alternatively, the learned Counsel contended that atleast the petitioner's case may be directed to the concerned for promotion to the post of Leading Hand under Clause 'A' i.e. against the vacancies 1, 3, 4, 7, 9 and 12, which are meant to be filled by promotion from amongst the Mechanics, Grade I or otherwise from the Mechanics, Grade II. Even with reference to this, the learned Counsel sought for a direction that the petitioner's case should be considered as and when a vacancy that was available irrespective of the fact that none of his juniors were promoted to the said post.

4. The above contentions are disputed and denied by the respondent corporation by filing a counter.

5. The learned Standing Counsel for the corporation also contended that as the petitioner was only appointed as a cleaner originally and further promoted as a Mechanic, Gr.II in the year 1980, he could not be considered as a direct recruitee Mechanic, Gr.II for promotion to the post of Leading Hand and he should be considered only as a promotee Mechanic as against the vacancies that are meant for such promotee Mechanics. The learned Counsel also contended that the claim of the petitioner was considered by the Corporation as his claim in comparison with the case of one Krishna Reddy was negatived as both the cases fall on different facts. Therefore, the petitioner is not entitled for any relief in the present Writ Petition and he has to wait for his turn for promotion to the post of Leading Hand.

6. Heard both sides and considered the material on record.

7. The petitioner sought for the relief of considering his case for promotion to the post of Leading Hand with retrospective date as against the vacancies of Leading Hand in 6^{th} and 10^{th} vacancies out of 12 vacancies, treating him as a direct recruitee Mechanic, Gr.II. The said claim is, admittedly, contrary to the facts of the case of the petitioner. Admittedly, the petitioner was not a direct recruitee Mechanic, Gr.II. He was appointed as a cleaner on 29-06-1978 and thereafter the petitioner passed the trade test in the year 1979 and then promoted as Mechanic, Gr.II in the year 1980.

However, the petitioner claiming that he has possessed the ITI certificate and also obtained the National Apprenticeship Certificate, and, therefore he is entitled for appointment as a Mechanic, Gr.II directly. Therefore, he should be treated as a direct recruitee Mechanic, Gr.II, in view of the above qualifications possessed by him. But when the petitioner was originally appointed as a cleaner and later promoted as Mechanic, Gr.II, he could not be considered as direct recruitee contrary to the factual aspects, even though, the petitioner possesses the qualification for direct recruitment as Mechanic, Gr.II. Therefore, the petitioner is not entitled to claim any further promotion by claiming that he should be treated as direct recruitee mechanic, Gr.II. The claim of the petitioner for promotion to the post of Leading Hand was considered by the Corporation as per the directions of this Court and negatived the claim on the ground that his case cannot be considered with that of one C. Krishna Reddy, who was said to be a direct recruitee to the post of AC Electrician. In any case, it is not the case of the petitioner that any of his juniors in the post of Mechanic, Gr.II is promoted to the post of Leading Hand. In fact, by proceedings dated 10-01-1997, the corporation has informed the petitioner that he has to wait for his turn for promotion to the post of Leading Hand. In that view of the matter, the petitioner is not entitled to any relief except he has to wait for his turn for promotion under Category-A, for promotion, to the post of Leading Hand as against 1,3,4,7,9 and 12, out of 12 vacancies of Leading Hand.

8. Under the above circumstances, the writ petitioner is not entitled to any relief in the present writ petition, and the same is accordingly dismissed. No costs.

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S. Ananda Reddy, J.

Dt: 02..08..2004.

RNS/KVH

To

1. The A.P.State Road Transport Corpn.,

rep.by its Managing Director,

Mushirabad, Hyderabad.

2. The Deputy Chief Traffic Manager,

A.P.S.R.T.C., Mahabubnagar Region,

Mahabubnagar.

3. Two CD copies.